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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/363,605	07/29/1999	PAUL A. LABERGE	MICE-0037-US	8331

7590 10/09/2003

COE F MILES  
TROP PRUNER HU & MILES PC  
8554 KATY FREEWAY  
SUITE 100  
HOUSTON, TX 77024

EXAMINER
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CHUNG TRANS, XUONG MY

ART UNIT	PAPER NUMBER
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2833

DATE MAILED: 10/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/363,605

Applicant(s)

LABERGE, PAUL A.

Examiner

Xuong M. Chung-Trans

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-- The MAILING DATE of this communication appears in the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 July 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-13, 15-23 and 26 is/are rejected.
- 7) ☒ Claim(s) 6, 14, 27 and 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

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1. This is responsive to the communication filed on July 11, 2003.
2. In the amendment filed on July 11, 2003, claims 24-25 have been cancelled and new claims 27-28 have been added. Thus claims 1-23 and 26-28 are pending in this application.
3. Claims 1, 3-5, 8-9, 11, 13, 18, 20-22 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al in view of Olarig (U.S. Pat. No. 6,505,305).

The rejection of claims 1, 3-5, 8-9, 11, 13, 18, 20-22 and 26 under 35 U.S.C. 103(a) as being unpatentable over Chen et al, as state in the Office action dated April 8, 2003, is incorporated by reference.

Applicant argued that the examiner was taking Official Notice of the alleged suggestion or motivation to modify Chen as set forth in the Office action dated April 8, 2003, and applicant challenged the Official Notice and requested a reference to support the examiner's position. The examiner hereby cites the Olarig '305 reference to support the examiner's position. Col. 6, lines 32-40 of Olarig specifically states why one could place a device closer to the first bus (local bus) than the second bus (memory bus).

4. The rejection of claims 2, 7, 10, 12, 15-17, 19 and 23 under 35 U.S.C. 103(a) as being unpatentable over Chen et al. in view of applicant admitted prior art, as state in the Office action dated April 8, 2003, is incorporated by reference.

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5. Claims 6, 14 and 27-28 are objected to as being dependent upon a rejected based claim, but would be allowable if rewritten in independent form including all of the limitation of the base claim and any intervening claims.

6. Applicant's arguments filed July 11, 2003 have been fully considered but they are not persuasive.

The applicant thinks an express suggestion in one of the cited reference is necessary to combine teaching known in the prior art. However, the test for obviousness under 35 U.S.C. 103 does not require an express suggestion of the claimed invention in any or all references; rather, the issue is to be solved based upon what the collective teachings of these references would have suggested to the artisan. Leinoff v. Louis Milona & Sons, Inc., 726 F.2d 734, 220 USPQ 845 (Fed. Cir. 1984); In re Keller, 642 F. 2d 413, 208 USPQ 871 (CPA 1981); In re McLaughlin, 443 F. 2d 1392, 170 USPQ 209 (CCPA 1971). An express statement in a reference suggesting the modification is not necessary in order for a claimed invention to have been rendered obvious. Cable Electric Products, Inc. v. Genmarks, Inc., 770 F. 2d 1015, 226 USPQ 881 (Fed. Cir. 1985). The applicant fails to credit the artisan with any skill at all. In re Sovish, 769 F. 2d 738, USPQ 771 (Fed. Cir. 1985).

Applicant's challenge to the Official Notice is noted. It is requested the applicant to consider the reference of Olarig (specifically, col. 6, lines 32-40).

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xuong M. Chung-Trans whose telephone number is (703) 305-9772. The examiner can normally be reached on Tuesday-Friday from 9:30am to 1:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Bradley, can be reached on (703) 308-2319. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 305-3900.



X. Chung-Trans



PAUL R. MYERS  
PRIMARY EXAMINER